IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 242 of 2001
(Old No. 398 of 1995)

M/s M.L. Dalmiya & Company Ltd
76 Ashutosh Mukherjee Road
Calcutta-700025 …….Revisionist/Applicant

Versus
M/s Oil & Natural Gas Commission
Tel Bhawan, Dehradun ……Respondent.

Shri Sandeep Tandon, learned counsel for the revisionist.
Shri J.P. Joshi, learned counsel for the respondent

Hon'ble Prafulla C. Pant, J.

This revision, preferred under Section 115 of Code of Civil Procedure, 1908, is directed against the order dated 18th May, 1995 passed in Civil Misc. Case No. 169 of 1993.

2. Heard learned counsel for the parties.

3. The dispute in the present case relates to insufficiency of the stamp duty payable on the instruments, filed before the lower court. It appears that an Arbitrator entered into a reference in respect of the dispute between M/s. M.L. Dalmiya Co. Ltd. on the one hand and M/s Oil and Natural Gas Commission on the other. Though the claim of the revisionist appears to be for an amount of Rs. 90,72,033.51 however, the Arbitrator accepted the claim of the revisionist to the tune of Rs. 39,28,885.89

with costs amounting Rs. 21,750/- as such, totalling Rs. 39,50,635.89 There is no dispute as to the fact that stamp duty was paid on the value of the instrument (award) at Rs. 39,50,635.89. When the objections were raised on behalf of the respondent-M/s Oil and Natural Gas Commission before the trial court as to the insufficiency of the stamp duty, paid on the award submitted by the arbitrator, the trial court upheld the objections on the ground that it is not the awarded sum, on which the stamp duty is payable but on the entire claim of both the parties as the court could have decreased or increased the amount claimed by the rival parties. However, this Court is unable to accept the reasons mentioned in the impugned order, holding insufficiency of the stamp duty paid on the award. Item No. 12 of Schedule I-B of Indian Stamp Act, 1899, provides that award submitted by the Arbitrator shall bear the stamp duty at the same rate of duty as a bond mentioned at serial No. 15 of the Schedule. There is no dispute as to the fact that on the award for an amount of Rs. 39,50,635.89, sufficient stamp duty has been paid on the award by the revisionist who has sought to make the award the rule of Court. The Arbitrator has rejected the claim on Oil and Natural Gas Commission, as such there is no question on the part of the trial court to change the award over and above Rs. 39,50,635.89.

4. In the circumstances, this Court is of the view that the impugned order passed by the trial court is erroneous in law and cannot be upheld.

5. Accordingly, the revision is allowed. The impugned order dated 18.05.1995, passed by learned Additional Civil Judge/ Vth Additional Chief Judicial Magistrate, is set aside. The trial court shall proceed, treating the instrument as sufficiently stamped.

(Prafulla C. Pant, J.)

Dt: 23.03.2006
Sweta